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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifteenth session

SUMMARY RECORD OF THE 388th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 May 1997, at 10 a.m.

Chairperson: Miss MASON

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Initial report of Algeria (continued) (CRC/C/28/Add.4; CRC/C/Q/ALG.1)

1. At the invitation of the Chairperson, the Algerian delegation resumed its place at the Committee table.

2. Mr. FULCI asked whether inter-country adoption was allowed under Algerian legislation and whether any measures were being taken to deal with the abduction of young women, often for weeks at a time, and their subjection to repeated abuse and violence of various kinds in what their kidnappers called "temporary marriages" and observers, including Muslim scholars, condemned as rape. He also asked whether girls under the age of 14 had been victims of such violence.

3. Mr. DEMBRI (Algeria) said that inter-country kafala, or legal tutelage, was possible under Algerian legislation provided that preservation of the child's identity was guaranteed.

4. The terrorist practices that had been mentioned were to a large extent related to the ending of resistance to the Soviet presence in Afghanistan. Terrorist groups that had been formed and trained in Afghanistan had returned to Algeria, when the Afghan war had ended. Being unemployed, they were mobilized through foreign associations and financed by various networks, some of them in Saudi Arabia, to defend Islam against communism. They criticized the Republican State and democratic values as being contrary to the law of God.

5. So-called "temporary marriage" was permitted by Shia Islam but completely unknown in and prohibited by Sunni Islam; it was also contrary to Algerian national legislation.

6. It was true that about a dozen girls aged 14 had been abducted and raped and had had their throats cut. Algeria called upon the international community to join it in resolutely condemning such terrorism, which had absolutely no religious justification and was nothing but recurrent medieval barbarism.

7. Mrs. MBOI said that legal and social discrimination against women, based on Islamic law, still prevailed in Algeria and was a cause of concern to her. She had particularly in mind inheritance law and the Algeria husband's absolute right to keep the conjugal home in the event of divorce. She requested more information on the situation regarding safe as well as unsafe abortions, and asked if there had been any studies of the matter. When a young woman became pregnant and the father of her child did not admit his responsibility, she had to resort to abortion or abandonment of the child. Was any punishment meted out upon such a woman, especially if she was a child? There was a serious danger of her being doubly victimized. Had any study been made of the impact on children of political violence, in terms both of those children directly exposed to it and the generality of children who were living in an atmosphere of violence? If no such study had been made, were

there plans for one? Had the Government considered incorporating peace studies in school curricula with the aim of ensuring that children did not themselves grow up to be violent and that they absorbed values which protected them against the effects of political violence?

8. Mr. RABAH asked what happened when children in Algeria were recruited by armed terrorist groups. When they were arrested, what was done with them? Did the Government apply legislation on juvenile delinquency and provisions applicable to minors, or were there any special laws or procedures that applied to terrorist delinquency?

9. Mr. DEMBRI (Algeria), answering Mrs. Mboi's question concerning legal and social discrimination, said that the Algerian Constitution established the same rights and obligations for all citizens, irrespective of gender. There were no discriminatory practices in respect of fundamental rights, but there did remain the special problem of those principles that were linked to the Family Code, which was based on Shariah principles. The explanation of the imbalance regarding inheritance was that in pre-Islamic society women had been completely excluded from inheritance. Islam had made them potential inheritors, although not in the same proportion as men. The hope was that interpretations of Shariah law would develop to the point where Algerian practice was brought into line with the general thrust of international law. Algeria was a patriarchal and not a matriarchal society, and time would be needed for such a development.

10. Algerian law was very progressive in its vigorous defence of any woman who had been raped or who had been abandoned with a child by a man who refused to acknowledge his paternity. The State and the judicial system provided protection if she wished to resort to therapeutic abortion after becoming pregnant following rape by a man she did not know. Centres for social assistance had been set up to take in and protect women and mothers who were in difficulties of that kind.

11. Algeria had for some years been experiencing terrorist violence in certain regions, and a considerable effort had been made to provide for the care and treatment of children affected by the various forms of traumatic distress it caused. Beyond the customary psychiatric and health care structures, consideration was being given to specialized treatment, and assistance through international cooperation was being sought. A body of knowledge and experience was being built up to help the authorities in dealing with the impact of terrorism on children and its destruction of the image they had of harmonious inter-personal relations.

12. The problem of children being trained by terrorist groups was very marginal; no children under the age of 14 had been so involved. Those between the ages of 16 and 18 came before the criminal courts, but any penalty imposed on them took account of their age. The death penalty had not been imposed on such children. Capital punishment had in fact been suspended in Algeria since October 1993. Minors involved in terrorist activities did not receive particularly serious punishment, because they continued to benefit from the excuse of their minority; they were usually placed in special institutions for the re-education and rehabilitation of juvenile delinquents.

13. Ms. HEMICI (Algeria) said that minors who had been abducted or who had had sexual relations with an adult or with another minor were protected by the law up to the age of 19 years. A minor who became pregnant was always considered to be the victim, and when the father of her child was arrested he was given the choice of marrying her in a registry office or being prosecuted; usually he preferred the former. For minors involved in terrorism the general rules applicable to childhood prevailed. Children under the age of 16 years were dealt with by a special judge of minors, accompanied by assessors who were generally teachers. A social investigation was usually carried out.

14. Mrs. DJIDEL (Algeria) said that there were reception centres in Algeria to assist pregnant women or women with children who were in difficulties. The Government encouraged and in some cases subsidized associations that cared for such women; the best known of them was called "Women in Distress". An association set up in the major towns of Algeria took care of the psychological and social needs of children who had been victims of violence and a special centre for children who had suffered social or psychological trauma was soon to be opened.

15. Ms. CHAIEB (Algeria) said that unmarried women who gave birth to a child in hospital were given a guarantee of anonymity and sufficient time after the birth to decide whether they wished to keep the child, have it placed in a State institution while they sought work or accommodation, or give it up altogether.

16. Mr. DEMBRI (Algeria) said that the Algerian approach to education was founded on the principles of progress, human dignity, social commitment and individual development. Those ideas also obtained in the Algerian family and society, as did the values of peace, brotherhood and equality. However, recent events in Algeria called for the introduction of the concept of forgiveness into Algerian life. A UNESCO professorship in the area of human rights had recently been established at the University of Oran. Algerian civic education stressed the values of humanism, tolerance, solidarity, and respect for the environment.

17. Referring to the questions which had been asked concerning abortion, he said that his Government would forward relevant statistics to the Committee.

18. Mrs. KARP said she was heartened by Algeria's awareness of both the problem of traumatized children and the need to identify strategies for treating them. Many countries were confronting the consequences of terrorism and war and Algeria could perhaps develop means of learning from their experience. She would like to know what plans and programmes were in place for dealing with trauma, both in trauma centres and in isolated rural areas beyond the reach of such institutions. It would also be useful to know whether school programmes addressed the matter of the psychological impact of violence, and what studies, if any, had been made of the problem of trauma.

19. The concept of the best interests of the child, mentioned in articles 3 and 21 of the Convention should be seen as bearing on all the Convention's other articles. In seeking to identify a child's best interests, all the possible alternative solutions must be considered. She would like to know whether Algeria had established or envisaged a mechanism to assess the impact

of national policy decisions on children, and in particular, on young families with many children. With reference to articles 3 and 12, the Algerian Government should also describe the measures or procedures by which courts and administrative entities identified a child's best interests, while taking his views into consideration.

20. A child's views had to be heard when guardianship, custody, and other decisions affecting him were being taken. It would be useful to know what procedures, if any, had been established in Algeria to assist a child in offering his views (which should include providing him with appropriate information concerning the alternatives to enable him correctly to evaluate his interests) and whether mechanisms had been established to ensure that the child's views were heard.

21. Both Algeria's report and the written replies addressed only briefly the question of participation by children. Algeria should describe what measures, if any, it had undertaken to encourage children to express their wishes and needs and to participate in decision-making processes.

22. Mr. DEMBRI (Algeria) said that his country dealt with the question of traumatized children within the conceptual framework established by the international community for dealing with the psychological consequences of war, genocide, terrorism and other violent acts. The Algerian strategy was twofold: firstly, to provide care and treatment to victims of trauma, and secondly, to endeavour to create a new society in which criminal terrorism would have no place. To that end, Algeria had abolished executions and had enacted a law granting clemency to those young Algerians who had participated in terrorist activities but had not committed acts of murder. A seminar on the impact of terrorist violence, to be held in September 1997, would bring together psychologists, educators, doctors, and consultants from international organizations in the areas of human rights, health, and education.

23. Many people of Algeria had been traumatized by the repressive activities of the colonial army during the country's struggle for independence. Abundant documentation had been compiled from medical and psychiatric records, and there existed a basic theoretical framework for coping with traumatic shock resulting from war. That experience could be applied in the present situation, although the acts of terrorist violence, including throat-slitting and decapitation, that had recently occurred in Algeria were without precedent. While rapes had been committed during the war of independence, those inflicted during the recent terrorist phase were of a far more barbaric nature. Children had also lost limbs to shrapnel. Algeria therefore had to make efforts to adapt its trauma treatment methodology to a new set of experiences.

24. On the question of the best interests of the child, he said that Algerian legislation had long contained many child-related provisions in the areas of education, health, welfare and protection against abuse. The Convention had been ratified by Algeria without reservations, although with several interpretative declarations. IMF had recently conducted negotiations with Algeria, which, under its new structural adjustment regime, would be subject to certain economic constraints. The Government had sought, however, to protect the budgetary provisions which affected the best interests of the

child, in the areas of education, health, and equality of opportunity. Measures had also been taken to protect Algerian society from the negative effects of a currency devaluation or price inflation. The Government would gladly provide detailed information on those matters.

25. Ms. HEMICI (Algeria) said that the best interests of the child were a major concern of her Government. Algeria's system of justice guaranteed certain rights to all its citizens and it placed particular emphasis on the protection of children against ill-treatment by adults. All persons who had to deal with children, judges included, were chosen on the basis of their particular interest in childhood. A judge never took a decision concerning a child without first consulting psychologists, educators, and social workers. The age of a child was always taken into consideration. Parents were always present at official proceedings, and the child's views were always sought. A child was never institutionalized, placed with an alternative family, or returned to his home unless he so wished. If a child did not wish to remain with his parents, he was taken into the care of the State. If a child wished to return to his family, his wish was always granted, on the ground that a child's family was always best for him. If a child expressed a wish to live with a particular relative, the judge acceded.

26. In the case of divorce, the Family Code granted custody to the mother. If the mother was deemed unfit, custody went to the father. Even so, the child's views were always sought. If a child expressed the wish to be placed with a particular relative, an investigation was undertaken to determine if that individual possessed the necessary qualifications and resources to care for the child.

27. A child's views were always sought on the matter of his adoption or alternative placement.

28. Mrs. DJIDEL (Algeria) said that the child clinics currently being set up throughout Algeria were in the staffing and funding stage. Staffed by child psychologists, social workers and educators, they would provide therapy, guidance and care to children in socially difficult circumstances and those traumatized by terrorist violence.

29. Ms. CHAIEB (Algeria) said that, when terrorist attacks took place, the victims were immediately admitted to hospital where they received medical and psychiatric attention. During their treatment the effects of terrorist attacks on children immediately became evident. They tended to shut themselves off but were able to express themselves through the tests that were conducted. The effects of such disasters were much worse if the children were not treated immediately. Once they had begun to recover from their shock, they were reintegrated into the school environment but were continuously monitored by a psychologist. A study of the effects on victims of terrorist attacks would be carried out once the situation in Algeria had stabilized.

30. Mrs. KARP said she was aware that even before its ratification of the Convention, Algeria had regarded the best interests of the child as a guiding principle. However, once the Convention had been ratified the children of a State party had the right to have their best interests taken into consideration. States parties were therefore obliged to consider their

legislation and see to what extent it was necessary to hear the views of children in taking everyday decisions. By extension, methods of ascertaining children's views should be introduced into training programmes for all administrative officials.

31. The best interests of children were perhaps sometimes determined by judges and officials in accordance with the best solution to conflicts between their parents. With the ratification of the Convention, that should cease to be the case.

32. It was clear that even though certain official decisions were not directly related to the children's rights established under the Convention they nevertheless had an impact on children. For that reason, any policy decision having such an impact should be accompanied by a statement explaining that fact.

33. Mrs. OUEDRAOGO said that the Algerian Constitution established the principle of sexual equality. Why therefore was Algeria not a party to the Convention on the Elimination of All Forms of Discrimination against Women? Its non-ratification was particularly surprising given the country's active role in preparing for the Fourth World Conference on Women and its membership of the Commission on the Status of Women.

34. The initial report of Algeria (CRC/C/28/Add.4) stated that there were no instances of discrimination in the country. How did that apply in relation to marriages between people from different ethnic groups and religions? What kind of social obstacles arose in that connection?

35. Paragraph 33 of the report indicated that measures had been taken to ensure that all births were registered. More information was necessary, however, concerning the practice in remote rural areas. What measures were taken to regulate the situation in the case of non-registration?

36. With regard to newborn children found abandoned, how was it possible to ensure that their development and protection were regulated, even in cases where they were placed in families or institutions?

37. Paragraph 36 of Algeria's report referred to media coverage for children who were seeking for their parents. In such cases, did the children concerned actually speak on television or radio? What measures were taken to protect their honour and dignity?

38. Ms. MOKHUANE said that the delegation had provided information on the measures taken in Algeria, in the form of peace education, to prevent violence against children. More important, however, was intervention prior to the commission of acts of terrorism. How did the Government intend to educate people to deal with trauma prior to its occurrence in terms of the acquisition of skills and inoculation against stress?

39. Algeria's report indicated that the age of discernment for children was 16 years. Did that mean that persons under that age did not possess the power of discernment, in other words that a 15-year-old could not assess his or her own needs. That directly contradicted the principles of children's

cognitive development, according to which a person could formulate ideas and judge situations at the age of 14, for example. The statement made in the report therefore undermined the integrity of young people and was prejudicial to their best interests. Such a rule was perhaps applicable in the case of mentally deficient children who were unable to think for themselves, but could hardly be applied to all children below the age of 16.

40. Mr. RABAH said that in certain countries births were registered up to the age of one year and thereafter a legal decision was taken to resolve the question of registration. What was the practice in Algeria? Judicial systems were often very slow and that could have an impact on children's lives. A child might reach the age of majority, without its birth having been registered. Had the Ministry of Justice introduced any measures to protect children's civil rights?

41. The CHAIRPERSON asked how it was possible to reconcile the concept of a child's best interests with the indication in the report of Algeria that a child was unable to take his or her own decisions before the age of 16. Was the report referring only to the participation of younger children in judicial decisions affecting their future?

The meeting was suspended at 11.50 a.m. and resumed at 12.05 p.m.

42. Mr. DEMBRI (Algeria) said that the provisions of Algerian law relating to the age of discernment did not mean that children under 16 years of age were intrinsically incapable of discernment. The measures applied could be extended, moreover, to take account, for example, of handicapped children over the age of 16. The law provided extenuating circumstances for children who faced punishment for offences they had committed.

43. Children were not objects but subjects of law. However, Algerian society had a very strong traditional basis and had only recently begun to modernize. Algerian children had considerable responsibilities in that they were obliged to assist their ageing parents, thus making a valuable social contribution. A child inculcated with the values of group solidarity was bound by a form of social contract. The positive qualities thus generated helped to modernize the rule of law.

44. In Algeria the crime of rape had a very harmful impact on a young girl and was an obvious cause of personal trauma, since according to the society's traditions young girls should retain their virginity until they married. The effects of violence and the harm done to a girl's physical integrity were alleviated by the sense of solidarity generated in Algerian society. The Government's report had been couched in legalistic terms, but clarification of many points could be found by looking at everyday life in Algerian society.

45. It was clear that cases existed where registration of births did not take place immediately in nomadic communities. However, nomads would, sooner or later, register a birth on a visit to the nearest village. The child was then granted civil status by court order.

46. Algeria had ratified the Convention on the Elimination of All Forms of Discrimination against Women, but that fact had not been widely publicized.

47. Parents, psychologists and magistrates were responsible for the degree of media coverage given to children seeking their parents. The experts who dealt with such cases did not show the children on television but aimed merely to sensitize public opinion. Searches were conducted for a child's natural as well as his adoptive parents, in accordance with the provisions of Algerian family law.

48. Ms. HEMICI (Algeria) said that, under the Algerian Code of Penal Procedure, very experienced juvenile judges with a particular interest in children were chosen to ascertain children's views. Younger judges also received child-specific training in the rules of juvenile justice, the Convention on the Rights of the Child and other human rights treaties.

49. The juvenile judges in Algeria were predominantly female. That was because women were more sensitive to children's needs and played the role of mothers. The male judges recruited were normally family men whose decisions were consistent with children's best interests. In all situations they sought to protect children, irrespective of their status (victim, delinquent or minor in moral danger placed in a specialized institution).

50. The judges also inspected the specialized rehabilitation centres in order to verify that the living conditions there were satisfactory and the staff competent. They played a multiple role and were assisted by a team of specialists including psychologists, social workers and paediatricians.

51. Since Algeria had gained its independence in 1962, a number of laws had been enacted that focused on the situation of children and were the primary guarantee of children's rights. Specialists were needed to ensure their implementation in accordance with children's best interests. A Children's Code was currently being drawn up and a commission was to be established to screen all existing legal texts with a view to updating them or repealing them.

52. The Algerian Code on Civil Status provided that all births should normally be registered by the child's parents. If a child was found abandoned, the fact had to be reported to the Department of Civil Status. That Department gave both a patronymic and a first name to children of unknown parentage.

53. A child's birth was registered and its identity recognized through an order made by a court. Once all the necessary requirements had been met, a child's birth was registered at the prefectural level. At the sub-prefectural level, the public prosecutor had primary responsibility for matters relating to civil status.

54. Mrs. DJIDEL (Algeria) said that the Convention formed part of the secondary school syllabus in Algeria so that by the age of 14 or 15 years students were well informed of their rights and were capable of defending them.

55. Ms. CHAIEB (Algeria) said that Algerian society had changed radically over the past 30 years. Parents no longer merely imposed their will but used

guidance and persuasion to ensure that the best interests of the child were served. For example, most families allowed their children to choose a branch of study or a career.

56. Mrs. DJIDEL (Algeria) said that whereas young girls had frequently been prevented in the past from continuing their studies beyond the age of 14 or 15 years, they were more likely in recent times to receive full parental backing when they wished to remain at school.

57. Mrs. KARP asked whether children's views were taken into account only by such persons as judges, when they had reached what was known as the age of discernment.

58. She inquired about the attitude of parents and teachers to corporal punishment. Was such punishment prohibited in Algeria or was there a feeling that "reasonable" or "moderate" violence was acceptable as a form of discipline in the home or in schools? Many cases of abuse had their roots in the innocent belief of parents or teachers that they were acting in the child's best interests, but extensive research had shown that corporal punishment was an ineffectual child-rearing method.

59. Mr. DEMBRI (Algeria) said that the age of discernment was defined in negative terms in Algerian legislation. Individuals who were not in full possession of their mental faculties or who were insane, or small children who were unable to fend for themselves were considered to lack discernment. The age of discernment was also viewed as an attenuating circumstance in the case of offenders below 16 years of age. In all cases, minors were entitled to express their views and have them taken into account by a judge.

60. Although corporal punishment certainly existed in families, it was prohibited by law, particularly in schools, and any assault on the human person was traditionally viewed as a shameful act. There was no concept of "reasonable" violence in Algerian legislation.

61. Mrs. DJIDEL (Algeria) said that society frequently intervened in cases of violence in the home. Teachers who found traces of physical abuse could report parents to the authorities. Neighbours could also denounce them. If necessary, the child would be removed from the family and placed in an appropriate institution.

62. Mrs. OUEDRAOGO asked whether children could complain of ill-treatment or neglect to some social structure other than the judicial authorities or the police, for example to a children's mediator.

63. Paragraph 68 of the report indicated that children could be separated from their parents in their own best interest. Who determined what the child's interest was in such cases? Was there any social body to which the child could appeal?

64. Was there provision for follow-up in cases of kafala to ensure that children were being treated properly in their new family. Could a child ask to be withdrawn from a foster family in which he was unhappy?

65. What provision was made for the social and moral rehabilitation of children who had been raped? Were children encouraged to overcome their fear or scruples and to report cases of incest?

66. The CHAIRPERSON, speaking as a member of the Committee, asked what was the attitude of law enforcement officials in a male-dominated society to violence against women and children in the family. Was it viewed as the family's business and of no concern to outsiders? Was there any provision for parent and family counselling?

67. She assumed that the recent violence in Algeria had left a large number of orphaned children. What was the scale of the problem and how were the authorities dealing with it?

68. Ms. MOKHUANE asked about the status of mothers from poor backgrounds whose children were institutionalized because they could not afford to look after them. She feared that such mothers were being disempowered.

69. Mr. DEMBRI (Algeria) said that the terrorist violence in Algeria did not amount to a civil war and was confined to a small part of the country. Self-defence groups had been set up under the authority of the armed forces and the gendarmerie and the situation was gradually improving. There was a vast network of institutions that provided appropriate care for orphaned children, widows and rape victims. The State assumed full responsibility for compensation and rehabilitation in such cases.

70. Children who did not wish to go to the police could take their complaints to the social workers who were attached to each school and neighbourhood dispensary.

71. Although Algeria was a male-dominated society, it was not a society of "machos" who denied women their rights. The male who exerted authority also bore a heavy weight of responsibility. Men were required, for example, to provide a livelihood for their dependants. With progress in education, social attitudes were evolving. Couples were marrying later and having fewer children.

72. Incest was extremely rare. It was punishable by law and rehabilitation facilities existed for the victims.

The meeting rose at 1 p.m.